

Department of Energy

§ 862.5

means, including but not limited to, aircraft.

(b) *Aircraft*. A manned or unmanned device or any portion thereof, that is commonly used or intended to be used for flight in the air, including powerless flight. Such devices include but are not limited to any parachute, hovercraft, helicopter, glider, airplane or lighter than air vehicle.

(c) *Boundary*. A delineation on a map of Federal interest in land or water utilized by DOE pursuant to the Atomic Energy Act of 1954, as amended:

(1) Authorized by Congress, or

(2) Published pursuant to law in the FEDERAL REGISTER, or

(3) Filed or recorded with a State or political subdivision in accordance with applicable law.

(d) *Designated site*. An area of land or water identified in accordance with § 862.7 of this part.

(e) *Downed aircraft*. An aircraft that is on a designated site due to emergency landing or for any other reason.

(f) *Manager of Operations*. The Manager of a DOE Operations Office, the Manager of the Pittsburgh Naval Reactors Office, the Manager of the Schnectady Naval Reactors Office and, for designated sites administered directly by DOE Headquarters, the Director of the Office of Safeguards and Security.

§ 862.4 Prohibitions and penalties.

(a) The following activities are prohibited by this part:

(1) Operation or use of aircraft on lands or waters of designated sites.

(2) Air delivery to or from designated sites.

(3) Removal or movement of downed aircraft, or participation in the removal or movement of downed aircraft, from or on a designated site unless prior authorization is obtained pursuant to § 862.5 of this part.

(4) Failure to remove a downed aircraft from a designated site in accordance with an order issued by the cognizant DOE Manager of Operations under § 862.5 of this part.

(5) Violation of Federal Aviation Administration regulations regarding minimum altitudes and prohibited flight maneuvers over a designated site.

(b) A person willfully engaging in activities prohibited by this part may be subject to the imposition of criminal penalties set forth in sections 223 and 229 of the Atomic Energy Act, as amended (42 U.S.C. 2273 and 2278(a)).

§ 862.5 Procedures for removal of downed aircraft.

(a) An aircraft on or brought on to a designated site, except as provided in § 862.2 (b)(1), shall not be moved within or removed from such areas except as provided for in this section. All such aircraft are subject to full inspection by DOE security personnel upon landing upon order of the Manager of Operations or his designee. Any attempt to depart or remove the aircraft from a designated site without clearance obtained pursuant to this section, may be assumed to be indicative of hostile intent by security forces at such sites.

(b)(1) The cognizant DOE Manager of Operations for a designated site may, on his own initiative, issue a written order to the owner or operator of a downed aircraft to require the removal of that aircraft from the site within 20 days of this notice. Such an order shall specify:

(i) The date upon which removal operations must be completed;

(ii) The times and means of access to and from the downed aircraft to be removed;

(iii) The manner of removal; and

(iv) An estimate of the cost of removal to DOE for which the owner or operator will be held liable if removal is accomplished by DOE.

(2) The owner or operator of the downed aircraft may file a written petition, supported by affidavits, to the cognizant Manager of Operations requesting that the order be modified or set aside. The petition may be granted by the Manager of Operations for good cause shown, upon a finding that it is clearly consistent with the national security, public safety, and federal property interests. Such petition must be filed at least 10 days prior to the date upon which removal is to be initiated, as specified in the order. The written decision of the Manager of Operations shall be a final agency action.

(c)(1) The owner of a downed aircraft may petition the cognizant Manager of